

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 261.33, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 261.35 Deletion of certain hazardous waste codes following equipment cleaning and replacement.

(a) Wastes from wood preserving processes at plants that do not resume or initiate use of chlorophenolic preservatives will not meet the listing definition of F032 once the generator has met all of the requirements of paragraphs (b) and (c) of this section. These wastes may, however, continue to meet another hazardous waste listing description or may exhibit one or more of the hazardous waste characteristics.

(b) Generators must either clean or replace all process equipment that may have come into contact with chlorophenolic formulations or constituents thereof, including, but not limited to, treatment cylinders, sumps, tanks, piping systems, drip pads, fork lifts, and trams, in a manner that minimizes or eliminates the escape of hazardous waste or constituents, leachate, contaminated drippage, or hazardous waste decomposition products to the ground water, surface water, or atmosphere.

(1) Generators shall do one of the following:

(i) Prepare and follow an equipment cleaning plan and clean equipment in accordance with this section;

(ii) Prepare and follow an equipment replacement plan and replace equipment in accordance with this section; or

(iii) Document cleaning and replacement in accordance with this section, carried out after termination of use of chlorophenolic preservations.

(2) Cleaning Requirements.

(i) Prepare and sign a written equipment cleaning plan that describes:

(A) The equipment to be cleaned;

(B) How the equipment will be cleaned;

(C) The solvent to be used in cleaning;

(D) How solvent rinses will be tested; and

(E) How cleaning residues will be disposed.

(ii) Equipment must be cleaned as follows:

(A) Remove all visible residues from process equipment;

(B) Rinse process equipment with an appropriate solvent until dioxins and dibenzofurans are not detected in the final solvent rinse.

(iii) Analytical requirements.

(A) Rinses must be tested by using an appropriate method.

(B) "Not detected" means at or below the following lower method calibration limits (MCLs): The 2,3,7,8-TCDD-based MCL—0.01 parts per trillion (ppt), sample weight of 1000 g, IS spiking level of 1 ppt, final extraction volume of 10–50 µL. For other congeners—multiply the values by 1 for TCDF/PeCDD/PeCDF, by 2.5 for HxCDD/HxCDF/HpCDD/HpCDF, and by 5 for OCDD/OCDF.

(iv) The generator must manage all residues from the cleaning process as F032 waste.

(3) Replacement requirements.

(i) Prepare and sign a written equipment replacement plan that describes:

(A) The equipment to be replaced;

(B) How the equipment will be replaced; and

(C) How the equipment will be disposed.

(ii) The generator must manage the discarded equipment as F032 waste.

(4) Documentation requirements.

(i) Document that previous equipment cleaning and/or replacement was performed in accordance with this section and occurred after cessation of use of chlorophenolic preservatives.

(c) The generator must maintain the following records documenting the cleaning and replacement as part of the facility's operating record:

(1) The name and address of the facility;

(2) Formulations previously used and the date on which their use ceased in each process at the plant;

(3) Formulations currently used in each process at the plant;

(4) The equipment cleaning or replacement plan;

(5) The name and address of any persons who conducted the cleaning and replacement;

(6) The dates on which cleaning and replacement were accomplished;

(7) The dates of sampling and testing;

(8) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization, preservation, and chain-of-custody of the samples;

(9) A description of the tests performed, the date the tests were performed, and the results of the tests;

(10) The name and model numbers of the instrument(s) used in performing the tests;

(11) QA/QC documentation; and

(12) The following statement signed by the generator or his authorized representative:

I certify under penalty of law that all process equipment required to be cleaned or replaced under 40 CFR 261.35 was cleaned or replaced as represented in the equipment cleaning and replacement plan and accompanying documentation. I am aware that there are significant penalties for providing false information, including the possibility of fine or imprisonment.

[55 FR 50482, Dec. 6, 1990, as amended at 56 FR 30195, July 1, 1991; 70 FR 34561, June 14, 2005]

Subpart E—Exclusions/Exemptions

SOURCE: 71 FR 42948, July 28, 2006, unless otherwise noted.

§ 261.38 Exclusion of comparable fuel, emission-comparable fuel, and syngas fuel.

(a) *Specifications for excluded fuels.* Materials that meet the specifications for comparable fuel, emission-comparable fuel, or syngas fuel under paragraphs (a)(1), (a)(2), or (a)(3) of this section, respectively, and the other requirements of this section, are not solid wastes.

(1) *Comparable fuel specifications.*—(i) *Physical specifications.*—(A) *Heating value.* The heating value must exceed 5,000 BTU/lbs. (11,500 J/g).

(B) *Viscosity.* The viscosity must not exceed: 50 cs, as-fired.

(ii) *Constituent specifications.* For compounds listed in Table 1 to this section, the specification levels and, where non-detect is the specification,

minimum required detection limits are: (see Table 1 of this section).

(2) *Emission-comparable fuel specifications.*—The specifications shall be met as-generated. (i) *Physical specifications.*—(A) *Heating value.* The heating value must be 8,000 BTU/lbs (18,400 J/g) or greater.

(B) *Viscosity.* The viscosity must not exceed 50 cs.

(ii) *Constituent specifications.*—(A) Except as provided by paragraph (a)(2)(ii)(B) of this section, for compounds listed in Table 1 of this section the specification levels and, where non-detect is the specification, minimum required detection limits, are: (see Table 1 of this section).

(B) *Specifications not applicable.* The specification levels in Table 1 to this section do not apply for the following hydrocarbons and oxygenates under the special conditions provided under this section for emission-comparable fuel:

(1) Benzo(a)anthracene (CAS No. 56–55–3).

(2) Benzene (CAS No. 71–43–2).

(3) Benzo(b)fluoranthene (CAS No. 205–99–2)

(4) Benzo(k)fluoranthene (CAS No. 207–08–9)

(5) Benzo(a)pyrene (CAS No. 50–32–8)

(6) Chrysene (CAS No. 218–01–9)

(7) Dibenzo(a,h)anthracene (CAS No. 52–70–3)

(8) 7,12-Dimethylbenz(a)anthracene (CAS No. 57–97–6)

(9) Fluoranthene (CAS No. 206–44–0)

(10) Indeno(1,2,3-cd)pyrene (CAS No. 193–39–5)

(11) 3-Methylcholanthrene (CAS No. 56–49–5)

(12) Naphthalene (CAS No. 91–20–3)

(13) Toluene (CAS No. 108–88–3).

(14) Acetophenone (CAS No. 98–86–2).

(15) Acrolein (CAS No. 107–02–8).

(16) Allyl alcohol (CAS No. 107–18–6).

(17) Bis(2-ethylhexyl)phthalate [Di-2-ethylhexyl phthalate] (CAS No. 117–81–7).

(18) Butyl benzyl phthalate (CAS No. 85–68–7).

(19) o-Cresol [2-Methyl phenol] (CAS No. 95–48–7).

(20) m-Cresol [3-Methyl phenol] (CAS No. 108–39–4).

(21) p-Cresol [4-Methyl phenol] (CAS No. 106–44–5).